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December 1, 2007

**VIA E-MAIL**

Arlene P. Messinger, Esq.  
Asst. Gen. Co. for SBIC Enforcement  
U.S. Small Business Admin.,  
Receiver for Prospero Ventures, L.P.  
409 Third St., S.W., 7<sup>th</sup> Floor  
Washington, D.C. 20416

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Re: U.S. Small Business Administration, as Receiver for Prospero Ventures,  
L.P., v. Jane Sloane; Jarrat Enterprises, L.P.; John Murphy; Rainbow  
Enterprises, L.P.; John Sloane; and Donald Emery  
USDC (N.D. Cal., SF) Case Nos. C 07-03732/36/37/38/39/47-MEJ

Dear Counsel:

As you know, I have been appointed by the District Court to serve as the mediator in the referenced cases under the court's Mediation program. Please be sure to review carefully ADR L.R. 6 which governs the Mediation program. I attach a copy of my neutral profile describing my professional experience from the court's web site.

Pursuant to ADR L.R. 6-6, I will conduct a phone conference with all counsel before the formal mediation to discuss the following:

- ▶ the procedures to be followed;
- ▶ the nature of the case;
- ▶ appropriate dates for the mediation and anticipated length of the session;
- ▶ the parties who must be present under ADR L.R. 6-9 and the parties who need to be present to have a productive mediation session;
- ▶ ideas to improve the effectiveness of the mediation session or matters that could pose impediments;
- ▶ requirements for your written mediation statements;

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- ▶ any questions you might have about how I normally conduct mediations; and
- ▶ any questions you might have about the mediation program.

I anticipate that the telephone conference will last approximately one-half hour. I request that plaintiff's counsel confer with defendants' counsel and advise me of two or three alternative mutually convenient days and times for the call. During the next few weeks, I am available on December 5, 6, 7 (early morning or early afternoon only), 10 (morning only), 11 (morning only), 12-14, 18, 19 and 21. Some of the missing dates are tentative and I may be able to rearrange my schedule, if another date and time work best for you. Before the telephone conference, please ascertain from your clients and any insurers a selection of dates upon which the mediation may be conducted. I am generally available, in addition to the foregoing dates, on January 2-4, 21-23 and 29-31, 2008. Again, I may be able to be available on some other day, if it is the only good day for you. The earliest of the final dates in the referenced cases that the mediation can be held is January 31, 2008, based on the current scheduling order.

My conflicts check revealed no actual or potential conflicts of interest under 28 U.S.C. §455(a) and (b), and I am not aware of any other circumstances that would compromise my impartiality or the appearance of impartiality.

It appears that some other related cases have settled or otherwise been resolved. At our initial telephone conference, I would appreciate an update on who is still involved in the case and who is not. Also, I do not have an e-mail address for Arlene Messinger. Will e-mails to Mr. Horowitz and Ms. Levin suffice for the SBA or would you like me to fax or e-mail copies of communications to Ms. Messinger as well? If so, please provide her e-mail address.

I look forward to assisting you on this case.

Sincerely yours,

/s/

James P. Barber

cc: Clerk's Office-ADR Unit  
Attn: Alice M. Fiel  
(via e-mail)